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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/588,997	06/06/2000	Curtis Lee Carrender	E-1804	9316

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EXAMINER

NGUYEN, NAM V

ART UNIT PAPER NUMBER

2635

DATE MAILED: 06/08/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/588,997

Applicant(s)

CARRENDER ET AL.

Examiner

Nam V Nguyen

Art Unit

2635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 2 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 18 May 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-31.

Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on 06 June 2000 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: On page 12, third paragraph, Applicant's argument that Hirata in view of Haruyama did not disclose that a backscatter response having a substantially constant power level is not persuasive.

Hirata et al. teach that a modulator C1 is designed as a phase modulator for changing a signal phase between 90 degree and -90 degree (column 5 lines 41 to 50; see Figure 1). In general, the loss in the modulator C1 increases as the conductance of the modulator C1 increases. In addition, the ratio of an electric power radiated from the antenna B1 to an electric power received by the antenna B1 increases as the susceptance of the modulator C1 increases. Thus, the modulator C1 is preferably designed as a phase modulator having a very small conductance and a moderate susceptance (a susceptance not excessively large). In the case where the impedance of the modulator C1 is equal or very close to 0, the conductance or the susceptance of the modulator C1 is extremely large. Thus, the impedance of the modulator C1 is preferably set to a value appreciably separate from 0. The modulator C1 may be designed as a phase modulator for changing a signal phase between 45 degree and -45 degree or a phase modulator for changing a signal phase between 120 degree and 0 degree (column 6 lines 6 to 24; see Figure 3). Therefore the phase modulator C1 is only changing the phase but not an amplitude.

Furthermore, Haruyama et al. disclose that a responder 30 also comprises an antenna 35 for receiving the energy wave transmitted from the circularly polarized wave antenna 14 of the interrogator 10. The energy wave received by the antenna 35 and serving as a carrier wave for the response signal wave is supplied to a phase modulator 36, and is phase-modulated by a response signal output from the microprocessor or the like. The phase-modulated signal is sent back again from the antenna 35 toward the interrogator 10 as a response signal wave. Upon modulation by the phase modulator 36, a harmonic component is generated as if it was amplitude-modulated by the response signal, and is also radiated from the antenna 35 as a harmonic signal wave (column 4 lines 6 to 19; see Figure 5). One skilled in the art understands that constant power transmission can be achieved by modulating either the frequency or the phase of a carrier wave. Of these two modulation alternatives, phase modulation is far preferable for constant power level in communication systems because of its greater bandwidth efficiency. The reason for this greater bandwidth efficiency can be readily understood by considering the operation of a frequency or phase modulation system. Therefore, Hirata et al. and Haruyama et al. disclose that a transponder is configured to return a backscatter response of a substantially constant power level.

W

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